

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

DONALD MORISKY

Plaintiff,

vs.

MMAS RESEARCH, STEVEN TRUBOW,
DUSTIN MACHI RODNEY WATKINS

Defendants.

Case No.: 2:21-cv-1301-DWC

DECLARATION OF STEVEN
TRUBOW

I, STEVEN TRUBOW make the following declaration.

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration of my own personal knowledge.
2. I live and work at 101 2nd Street, Unit 303, Petaluma, CA 94952.
3. I am 72 years old. I will turn 73 years old on October 9, 2023.
4. I was diagnosed with Hypertension thirteen years ago, Psoriatic Arthritis twenty years ago and for Diabetes 2 in January 2023 after my A1C blood sugar was found to be excessive in blood tests. I informed my lawyer in Seattle on February 16, 2023, that due to my deteriorating health conditions and pending medical

DECLARATION OF STEVEN TRUBOW - I

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1 appointments and the fact I move to a different residence on February 25-28,
2 2023, I will not be able to attend the depositions in Seattle.

3
4 5. This Court (DKT 123) ordered me to sit for two days of depositions, one for
5 Defendant Trubow and one for Defendant MMAS Research LLC on May 24,
6 2023, and May 25, 2023, at Mr. Austin's Las Vegas office.

7 6. I traveled to Las Vegas from San Francisco California on May 23, 2023.

8 7. When I arrived in Las Vegas on May 23, 2023, I called the law offices of
9 Christopher Austin and asked what time the deposition would begin and end
10 each day. I was told the depositions on both days would run from 9:00 am until
11 6:00 pm or until finished with a short break for lunch.
12

13 8. On May 24, 2023, Christopher Austin explained they would depose me as an
14 individual on the first day and depose MMAS Research LLC on the second day.

15 9. On May 25, 2023, in the morning, Mr. Austin and the Court Stenographer said
16 they had late afternoon and early evening appointments that would make it
17 difficult to complete the deposition of MMAS Research LLC on the second day of
18 deposition, May 25, 2023.
19

20 10. Mr. Austin suggested extending the second day deposition of MMAS Research
21 LLC until Tuesday May 30, 2023, over a zoom call to accommodate his schedule
22 and the Court Reporter. Although the Court ordered for me in DKT 123, to
23 participate in depositions for two days in Las Vegas, in the spirit of cooperation,
24 my lawyer Pat Ray and I agreed to finish the second day of deposition after the
25 Memorial Day weekend to accommodate Austin and the Court Reporter's
26 schedule.
27

28 DECLARATION OF STEVEN TRUBOW - 2

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1 11. My morning flight on Friday May 26, 2023, from Las Vegas to San Francisco was
2 cancelled and I had to spend all day Friday in the Las Vegas airport waiting for a
3 10:10 pm flight to San Francisco.

4 12. I arrived in San Francisco after midnight on Saturday morning. I began to feel
5 feverish and very weak on the flight. I was about to learn the meaning of the "lost
6 weekend".

7 13. By the time I arrived home in Petaluma at 1:30 am on Saturday May 27, 2023, I
8 was very ill. I do not remember the LYFT ride I got from the San Francisco Airport
9 to my apartment in Petaluma California or how I got into my apartment.

10 14. When I woke up late Saturday afternoon, I was running a high fever and I was so
11 weak I could not walk. I was unable to eat. My primary care Doctor was not
12 answering calls on Memorial Day Weekend. I had to crawl to the bathroom and
13 back to the bed where I slept until Sunday morning.

14 15. When I got up Sunday morning, I still had trouble walking. I could not eat or even
15 manage to drink a glass of water. I slept until late Sunday afternoon.

16 16. When I woke up, I again tried to call my primary care Doctor, but there was still
17 no one on call for the holiday weekend.

18 17. With great difficulty I drove myself to the Emergency Room of the Petaluma
19 Hospital on Sunday evening.

20 18. In the Emergency Room I was tested for COVID. After the COVID test the nurse
21 told me that they had no place for me to lay down, so I returned to my home after
22 I passed out and fell out of a chair in the Emergency Department waiting room.

1 19. I remember having difficulty driving and cracked one of my wheels when I hit a
2 curb.

3 20. On Memorial Day, Monday morning, May 29, 2023, I was notified by the Sonoma
4 County Health Department by text message that I tested positive for COVID the
5 evening before. I immediately notified my lawyer Pat Ray by text that I had
6 contracted COVID and that I would not be able to attend a zoom deposition on
7 May 30, 2023, or anytime soon.
8

9 21. From my bed, I called the Emergency Room and got a prescription for COVID
10 medicine. I managed to drive to the Pharmacy and begin the COVID medication
11 regiment. See Exhibit 1.
12

13 22. I stayed in bed from Monday May 29 until June 2, 2023, suffering from a severe
14 case of COVID. I was unable to eat or drink fluids without difficulty. I only got up
15 to go to the bathroom and take my COVID medication each day.
16

17 23. On May 30, 2023, I sent an email to Chris Austin and Pat Ray at 9:32 am pacific
18 time that said I am very sick with COVID. "I will not do a depo until I recover". See
19 Exhibit 2

20 24. I learned several weeks later that Austin had scheduled a second Zoom
21 deposition for May 31, 2023, after Ms. Ray told him on May 29th and I told him
22 on May 30th that I will not be doing any depositions for the foreseeable future due
23 to illness.
24

25 25. With all due respect to the this Court, Austin's rescheduling of a second zoom
26 deposition for May 31, 2023, and then seeking sanctions for the two cancelled
27 deposition, is a DÉJÀ VU motion for sanctions for what transpired when my
28

1 lawyer told him on February 16, 2023, six days in advance of my scheduled
2 depositions in Seattle February 24 and 25, 2023, that my medical condition
3 prohibited me from attending two scheduled days of deposition. Yet Chris Austin
4 went forward with both days of the depositions in Seattle and was later awarded
5 over \$30,000 in sanctions.
6

7 26. The fact that I was sanctioned by this Court for not attending the two days of
8 depositions in Seattle in February after providing six days of advance notice of a
9 medical condition and appointments for treatment and again face sanctions for
10 not attending a second scheduled Zoom deposition on May 31, 2023, after Austin
11 had learned on May 29 2023, that I was severely ill and bed ridden with Covid, in
12 my mind constitutes elder abuse.
13

14 27. The Court Ordered DKT 123 two days of depositions in Las Vegas were
15 completed as ordered. There is not any logical, legal, or good reason a second
16 zoom meeting was scheduled for May 31, 2023.
17

18 28. These two make up zoom meetings that should have never been necessary in
19 the first place led to me being ordered by this Court for a second time to return to
20 Las Vegas on June 29, 2023, to complete a face-to-face deposition instead of a
21 short Zoom that was planned as a result of Austin mismanaging the Court's
22 ordered May depositions in Las Vegas.
23

24 29. As this Court might recall, I was unable to get Ms. Ray, who was out of the
25 country, or Mr. Harris who had legal obligations in Seattle to represent me at this
26 deposition, because I could not make overnight arrangements in Las Vegas to
27 hire a Zoom service.
28

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30. Now I am facing the prospect of sanctions for the second time for not attending
an ill planned zoom deposition on May 31, 2023, when I was bedridden for
COVID.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed on August 1, 2023.


STEVEN TRUBOW

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